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Attorneys for Defendants/Counter-claimants
DONALD V. RYAN and BARBARA RYAN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NATIONWIDE MUTUAL INSURANCE
COMPANY,

Plaintiff,

v.

DONALD V. RYAN, an individual, and
DOES 1 through 10,

Defendants.

Case No. 3:12-CV-5000-JST

**STIPULATION and ~~PROPOSED~~ ORDER
re: REVISIONS TO SCHEDULING
ORDER (including CONTINUANCE OF
TRIAL DATE)**

AND RELATED COUNTER-CLAIM

Plaintiff/Counter-defendant NATIONWIDE MUTUAL INSURANCE COMPANY

(hereinafter "Nationwide") and Defendants/Cross-claimants DONALD V. RYAN and

BARBARA RYAN ("the Ryans"), and collectively referred to hereinafter as "the Parties," by and

1 through their respective counsel, hereby stipulate as follows:

2 **RECITALS**

3 1. The Parties, by and through their respective counsel, continue to work together to
4 accomplish necessary discovery.

5 2. As the Parties have engaged in discovery, counsel for the Parties have cooperated
6 with one another in the identification of witnesses and to make those witnesses available for
7 deposition. The identity of other witnesses, whose involvement in the pertinent events underlying
8 this action were unknown to the Parties and their counsel, have been disclosed during various
9 depositions counsel have conducted.

10 3. However, counsel for the Parties disputed the scope of certain discovery and, after
11 meeting and conferring in an effort to resolve the dispute informally, enlisted the assistance of the
12 Court by the filing of a joint letter-brief outlining the dispute and the Parties' respective positions.
13 On November 7, 2013, counsel for the Parties appeared before the Honorable Kandis A.
14 Westmore, Magistrate Judge, and presented their arguments with respect to the dispute.

15 4. On November 12, 2013, Magistrate Judge Westmore issued her decision granting
16 the Ryans' request to obtain the deposition of certain Nationwide personnel, one of whom is
17 identified and two of whom must be designated by Nationwide as the "person most
18 knowledgeable" about certain subject; she also order Nationwide to produce certain documents.
19 She denied the Ryans' request to obtain other documents. In her order, Judge Westmore directed
20 Nationwide to comply with the order by December 3, 2013.

21 5. Nationwide will designate the "persons most knowledgeable" as ordered and will
22 make them, as well as the person already identified, available for deposition as expeditiously as
23 possible. It is not known whether the persons designated as "most knowledgeable" can be made
24 available by December 3, though counsel are cooperating with each other to accomplish those
25 depositions as soon as possible.

26 6. The Parties and their counsel further recognize that the Parties' experts' analyses
27 and opinions may be affected by the deposition testimony of the persons to be deposed pursuant to
28 Judge Westmore's order. Given the upcoming Thanksgiving and the December holidays, the

Parties, by and through their counsel, believe it advisable that certain adjustments be made in the Court's scheduling order.

7. The Parties and their counsel wish to stress to the Court that the present circumstances of this litigation are the not result of dilatory conduct; to the contrary, they have been diligent in pursuing discovery so as to make a full presentation of the case at trial. Thus, counsel have worked together to develop a reasonable schedule of events that will maintain the progress of this litigation and allow the Parties to accomplish all necessary discovery.

NOW, THEREFORE, the Parties, by and through their respective counsel of record, do hereby stipulate as follows as request that the Court issue an order in accordance therewith:

STIPULATION

1. The Parties, by and through their respective counsel, request that the Court revise the previously-issued Scheduling Order as follows:

- | | | |
|---|------------------------------------------------------------------|-----------------------------------------------|
| • | Final Disclosure of Expert Witnesses and Expert Witness Reports: | December 9, 2013 |
| • | Completion of Discovery Ordered by Magistrate Judge Westmore: | December 16, 2013 |
| • | Expert Supplement Reports Due: | December 23, 2013 |
| • | Expert Rebuttal Reports Due: | January 6, 2014 |
| • | Expert Discovery Cut-off: | January 17, 2014 |
| • | Deadline to File Dispositive Motions: | February 7, 2014 |
| • | Hearing re: Dispositive Motions: | March 21, 2014 |
| • | Pretrial Conference Statement due: | April 1, 2014 |
| • | Pretrial Conference: | April 11, 2014 |
| • | Trial: | April 28, 2014
(time estimate: 12-15 days) |

2. If the Court is unable to accommodate the Parties' requested revisions to the Scheduling Order, the Parties request that the Court schedule a case management conference so that other adjustments may be discussed and, with the Court's approval, made in the Scheduling Order.

1 This stipulation is respectfully submitted by:

2 DATED: November 20, 2013 LEWIS BRISBOIS BISGAARD & SMITH LLP

3
4 By: /s/ Stephen J. Liberatore
5 Julian J. Pardini
6 Stephen J. Liberatore
7 Attorneys for Plaintiff/Counter-defendant
8 NATIONWIDE MUTUAL INSURANCE COMPANY

7 DATED: November 20, 2013 WILSON, ELSER, MOSKOWITZ, EDELMAN & DECKER

8
9 By: /s/ John T. Burnite
10 John T. Burnite
11 Attorneys for Plaintiff/Counter-defendant
12 NATIONWIDE MUTUAL INSURANCE COMPANY

12 DATED: November 20, 2013 LAW OFFICES OF JOHN C. MCCASLIN

13
14 By: /s/ John C. McCaslin
15 John C. McCaslin
16 Attorney for Defendant
17 DONALD V. RYAN

16 DATED: November 20, 2013 By: /s/ Marcus Daniel Merchasin
17 Marcus Daniel Merchasin
18 Attorney for Defendant
19 DONALD V. RYAN

20 **ORDER**

21 Based on the foregoing stipulation of the Parties and their proposed revisions to the
22 Court's scheduling order, and finding good cause therefor,

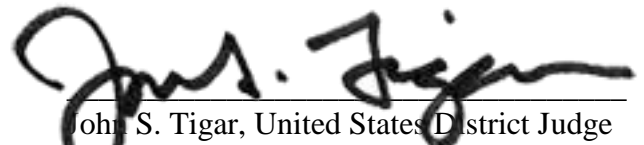
23 **THE COURT HEREBY ORDERS AND DECREES** that the previously-issued
24 Scheduling Order be, and hereby is, **MODIFIED** as follows:

- | | | | |
|----|---|------------------------------------------|-------------------|
| 25 | • | Final Disclosure of Expert Witnesses and | December 9, 2013 |
| 26 | | Expert Witness Reports: | |
| 27 | • | Completion of Discovery Ordered by | December 16, 2013 |
| | | Magistrate Judge Westmore: | |
| 28 | • | Expert Supplement Reports Due: | December 23, 2013 |

- Expert Rebuttal Reports Due: January 6, 2014
- Expert Discovery Cut-off: January 17, 2014
- Deadline to File Dispositive Motions: ~~February 7, 2014~~
March 3, 2014
- ~~Hearing re: Dispositive Motions:~~ ~~March 21, 2014~~
- Pretrial Conference Statement due: April 1, 2014
- Pretrial Conference: April 11, 2014
- Trial: April 28, 2014
(time estimate: 12-15 days)

IT IS SO ORDERED.

DATED: November 25, 2013


John S. Tigar, United States District Judge
United States District Court
Northern District of California